

Notice of Allowability

Application No.

10/659,752

Examiner

Brian P Mruk

Applicant(s)

GLICK ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to January 30, 2004.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Brian P. Mruk
Brian P. Mruk
Primary Examiner
Tech Center 1700

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

Xia, U.S. Patent No. 6,369,112, discloses a contact lens treatment composition comprising 0.00001-0.5% of an antimicrobial agent, such as polymeric hexamethylene biguanides (PHMB) that have molecular weights of 1,000-50,000 (see col. 5, line 22-col. 6, line 19), and optionally, 0.00001-0.5% by weight of a non-biguanide disinfectant, such as polyquaternium-1 (see col. 6, lines 20-49). It is further taught by Xia that the composition also contains a poloxamine surfactant (see col. 6, lines 50-52), a viscosity modifier, such as hydroxypropyl cellulose (see col. 8, lines 4-14), phosphate buffers (see col. 8, lines 29-64), sequestering agents, such as EDTA (see col. 9, lines 25-52), and tonicity agents, such as sodium and potassium chloride (see col. 9, lines 53-66). However, patentee differs from applicant in that applicant's Tables 1 and 2 have shown unexpected results for a contact lens treating composition that contains both PHMB and polyquaternium-1, versus compositions that only contain PHMB and compositions that only contain polyquaternium-1. Specifically, the compositions that contain both PHMB and polyquaternium-1 have an increased overall disinfecting score versus compositions that only contain PHMB and compositions that only contain polyquaternium-1. Because Xia does not teach or suggest the unexpected results obtained when using both PHMB and polyquaternium-1, the instant claims are allowable.

Accordingly, the claims viewed as a whole would not have been obvious to one of ordinary skill in the art at the time of the invention after viewing the prior art of record.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

Specifically, the examiner notes that the residence of Robert Glick and Zhi-Jian Yu are missing from the oath/declaration.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone

Art Unit: 1751

number for the organization where this application or proceeding is assigned is (703)
872-9306.

Bm

Brian Mruk
March 1, 2005

Brian P. Mruk

Brian P. Mruk
Primary Examiner
Tech Center 1700